

**Bescheld/Protokoll (Anlage)**Datum
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25.01.2005

Communication/Minutes (Annex)Blatt
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Notification/Procès-verbal (Annexe)Anmelde-Nr.:
Application No.: 01 107 443.2
Demande n°:

The examination is being carried out on the **following application documents**:

Description, Pages

2-9	as originally filed			
1, 1a, 10	received on	02.12.2004	with letter of	02.12.2004

Claims, Numbers

1-10	received on	02.12.2004	with letter of	02.12.2004
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Drawings, Sheets

1/1	as originally filed
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The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

- D1: EP-A-0 670 483 (FUJI PHOTO FILM CO LTD) 6 September 1995 (1995-09-06)
D2: WO 93/25309 A (KAARTINEN NILO) 23 December 1993 (1993-12-23)

The following document (D) is cited by the examiner (see the Guidelines, C-VI, 8.7). A copy of the document is annexed to the communication and the numbering will be adhered to in the rest of the procedure:

D3 EP-A-0527059

1. The present application does not meet the requirements of Article 52(1) EPC, because the subject-matter of claims 1,3 and 8 is not new in the sense of Article 54(1) and (2) EPC.

Independent method claim 1:

D3 discloses a method for stirring a liquid (see title and abstract), comprising:
sucking a part of a liquid from a liquid-containing container which opens at the top thereof; and
discharging the sucked liquid into the container at a discharging position which is horizontally different from a sucking position where the liquid has been sucked (see Abstract first paragraph and page 2, lines 33-36).



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Claim 3:

In D3, the sucking and discharging can also be repeated several times (Fig.3).

Independent apparatus claim 8:

D3 discloses an apparatus for stirring a liquid in a container comprising

- a container (part 11 in Fig.4) in which a liquid is contained, and means (pipette 10 in Fig.4) for sucking the liquid from the container and for discharging the liquid into the container, wherein the container opens at the top thereof, and wherein the means is capable of horizontally moving so that the liquid is discharged into the container at a position different from that where the liquid has been sucked from the container (see Abstract first paragraph and page 2, lines 33-36, moreover, almost every laboratory pipetting equipment capable of taking a sample in a recipient, and discharging it into another recipient would anticipate the subject-matter of claim 8, as these apparatus are also capable of horizontal displacement).

2. Dependent claims 2, 4-7, 9 and 10 do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements of the EPC with respect to novelty and/or inventive step, the reasons being as follows:

For claim 2, it is absolutely obvious for the skilled person that by discharging the liquid in the pipette when the pipette is held in a position above the level of the liquid in the container, air is also introduced and mixed with the liquid in the container. In D3, this situation is not desired and therefore, the pipette is discharged from a position below the level of the liquid in the container as shown in D3, Fig.6 and page 5, lines 7-13.

For claim 7, in D3 the liquid is basically urine containing blood corpuscles (page 2, line 28), anyway, the method of D3 is also absolutely suitable for stirring blood.

The subject-matter of the other claims is either already disclosed or obvious over the disclosure of D1-D3, or pertains to common features for the skilled person, and for which no inventive step can be granted.

Gérard MULLER